



Appeal Decision

Hearing Held on 17 May 2018

Site visit made on 16 May 2018

by Neil Pope BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday, 24 May 2018

Appeal Ref: APP/B1225/W/17/3181282

The Pines Hotel, 34-36 Burlington Road, Swanage, Dorset, BH19 1LT.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Messrs B & J Puddepham against Purbeck District Council.
 - The application Ref. 6/2017/0091, is dated 20 February 2017.
 - The development proposed is described as the construction of 45 beach huts over three and a half tiers with associated landscaping and associated facilities, including communal toilets and stairways.
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Decision

1. The appeal is dismissed and planning permission is refused for the construction of 45 beach huts over three and a half tiers with associated landscaping and associated facilities, including communal toilets and stairways.

Preliminary Matters

2. The Council has informed me that had it determined the application it would have refused permission for the following reason:

It is considered that the beach huts, by virtue of their overall scale, form and location, would cause significant harm to the landscape character and amenity of this part of the Dorset Area of Outstanding Natural Beauty and the setting of the Dorset and East Devon Coast World Heritage Site. It would add an unnatural landscape feature and extend the built form along the coast. This results in demonstrable harm to the distinctive landscape qualities of the locality. As such the proposed development is contrary to the aims and objectives of the National Planning Policy Framework. In addition the proposal does not accord with policies D – design and LHH – landscape, historic environment and heritage of the Purbeck District Local Plan Part 1. It is considered that the environmental harm caused by the adverse impact on the character and amenity of the area, outweighs any social or economic benefits of the proposal.

3. The application was accompanied by an Environmental Statement (ES) prepared in accordance with The Town and Country Planning (Environmental Impact Assessment) Regulations 2011. Whilst I note the concerns of some interested parties regarding the ES and the Scoping Opinion that was provided by the Council, there is adequate information to enable me to determine the appeal. I have taken the contents of the ES into account.

4. The appeal site lies within the Dorset Area of Outstanding Natural Beauty (AONB) and the Purbeck Ridge (East) Site of Special Scientific Interest (SSSI). It is also within the setting of the Dorset and East Devon Coast World Heritage Site (WHS) and the Purbeck Heritage Coast (PHC).
5. In November 2014, the Council granted planning permission for a cliff stabilisation scheme on the appeal site (ref. 6/2014/0369). This included the construction of a 10m high soil nailed wall, regrading of slopes and surface water drainage measures. Whilst cliff stabilisation works have taken place, this has not been in accordance with the approval. On behalf of the appellants, I have been informed that the works undertaken are different in engineering terms, as well as in appearance from the approved scheme. The Council has not authorised any enforcement action in respect of these works.
6. In March 2018, the Council granted planning permission for the construction of 40 beach huts over three tiers with associated facilities (including toilets and stairways) and landscaping on the appeal site (ref. 6/2018/0042). This is a 'fall back' position available to the appellants. If this appeal was to fail there would be a greater than theoretical possibility of this permission being implemented. I agree with both main parties that considerable weight should be attached to the 'fall back'.
7. At the Hearing, the Council informed me that following its decision to grant permission for 40 beach huts on the appeal site it was no longer pursuing its concern over the location of the appeal scheme. The Council also confirmed that it had not identified any harm to the PHC.
8. I note that permission has also been granted for: 15 beach huts at 28 Burlington Road (ref. APP/B1225/A/11/2151206); 44 beach huts at The Grand Hotel (ref. 6/2012/0547) and; 30 beach huts at 32 Burlington Road (ref. 6/2014/0137). Both main parties agree that these approvals have now lapsed.

Main Issues

9. The two main issues are; firstly, the effect upon the character and appearance of the area, with particular regard to the purpose¹ of conserving and enhancing the natural beauty of the AONB and; secondly, whether the proposal would harm the significance of the WHS and, if so, whether this would be outweighed by any public benefits.

Reasons

10. The development plan includes the Purbeck Local Plan Part 1 (PLP), adopted in 2012 and the Swanage Local Plan adopted in 2017. The appeal site lies outside the defined settlement boundary for Swanage. At the Hearing, both main parties agreed that the most relevant policy to the determination of this appeal is PLP policy LHH (landscape, historic environment and heritage).
11. My attention has also been drawn to the AONB Management Plan 2014-2019 (MP) that was produced by the Dorset AONB Partnership, as well as the East Devon Coast World Heritage Site Management Plan 2014-2019 (HCMP) that was adopted by the WHS Steering Group in 2009.

¹ Section 85 of the Countryside and Rights of Way Act 2000.

12. The special qualities of the AONB, as set out within the MP, include uninterrupted panoramic views, the exceptional undeveloped coastline and the 'living textbook'/geodiversity. Amongst other things, the HCMP identifies the special qualities of the AONBs as important for helping to determine how people experience and enjoy the setting of the WHS.
13. Whilst not forming part of the development plan, the MP and HCMP have been subject to stakeholder consultation. They can be given moderate weight.

Character and Appearance

14. This 0.22 ha site lies within Swanage Bay at the northern edge of the town. It forms part of the sea cliff to the east of the Pines Hotel and includes the cliff stabilisation works that were undertaken in 2015/16. These comprise 'hard' (soil nailed wall with a retained concrete surface, concrete piled wing walls and a concrete deck) and 'soft' (altered slope with hessian matting) engineering works. A large galvanised metal staircase, for use by hotel guests, has been constructed from the top of the cliff to the concrete deck just above the beach.
15. To the south of the site there are rows of beach huts stretching out from the town. These vary in height between one and three storeys. In contrast, to the north the cliffs and beach are mainly undeveloped and the alluring natural qualities of the coastal landscape prevail. The appeal site lies within the attractive setting to the high chalk cliffs of Purbeck Ridge/Ballard Point² at the northern end of Swanage Bay. It can be seen in views from the South West Coast Footpath (CP) around Swanage Bay and from sections of the beach.
16. As I saw during my site visit, when viewed from the beach immediately alongside, the engineered form and utilitarian appearance of the cliff stabilisation works and the metal staircase contrast sharply with the unspoilt natural qualities of the cliffs to the north. In particular, the hard engineering works create a rather brutal and uninviting scene. However, when viewed from the CP to the north and at the opposite end of Swanage Bay, the regressive colour of the cliff stabilisation works (with the exception of the metal staircase) and its profile, which is well integrated into the cliff face, are largely absorbed into the landscape/seascape. Although these works can be seen, they are not unduly prominent in panoramic views to and from the AONB.
17. The Council informed me that it had accepted the cliff stabilisation works as the 'baseline' position when granting permission for 40 beach huts on the appeal site. This and the above noted approval for 30 neighbouring beach huts were the 'baseline' positions within the appellants' ES³. From what I heard at the Hearing, in all likelihood, the appellants intend building the 40 hut scheme if this appeal was to fail. It would therefore be appropriate to include that permission as part of the 'baseline' in this appeal. The Council accepted that this would not be an unreasonable approach. However, as there are no longer extant permissions for new beach huts to the south, it would be inappropriate to include these previous approvals within the 'baseline'.
18. If implemented/built-out, the approved scheme for 40 beach huts would extend the pattern of development/huts further north along the beach than exists at present. The approved huts would have a total internal floor space of 334m² and would be arranged in three tiers/floor levels up part of the cliff side. The

² This ridge lies within the WHS.

³ The Landscape and Visual Impact Assessment considered permission ref. 6/2014/0137 as altering the 'baseline'.

upper tier would sit higher on the cliff than existing three tier beach huts to the south. When seen from the beach immediately to the east, the approved scheme would conceal much of the harsh cliff stabilisation works. It would also benefit the local economy and allow the appellants to recoup some of the costs of the cliff stabilisation works.

19. However, notwithstanding the use of planning conditions requiring landscape planting and controlling the use of materials/colour, in more distant views from the CP, the approved beach huts, by virtue of their size and height, would be a conspicuous addition to the cliff and this very sensitive coastal landscape. I struggle to appreciate how the approved scheme would conserve the landscape and scenic qualities of the AONB as provided for within the development plan and the National Planning Policy Framework (the Framework) or satisfy the above noted purpose of the AONB. It appears to me that the Council may have been generous when undertaking the planning balance. Nevertheless, as noted above, this is now a 'fall back' and the 'baseline' position for me to consider.
20. The main differences⁴ between the 'baseline' position and scheme⁵ now before me are as follows: the floor space would be increased by 42m²; the beach huts would be built over four tiers/floor levels rather than three; the number of huts at second tier/floor level would be reduced and; an increase in huts at third tier/floor level with units proposed on the northern tier as well.
21. The appellant's landscape architect has argued that both structures would be equally as refined in their treatment and apparent quality but the approval would have *"less presence and confidence than the larger scheme. It is more diminutive in scale but more horizontal, formal and solid, and it is more like other beach huts but without being absolutely like them in scale and finish. It appears to my eye to stand in contrast to them without being outstanding and it is, consequently, an unhappy compromise that fails to grasp the opportunity to conclude the developed beach in a strong but broken form."*
22. I concur with the Council and the AONB Partnership that there are important material differences between the two schemes. By increasing the number of units and extending beach huts further up the cliff face the appeal scheme would be more perceptible when viewed from the CP. Seeing a development does not necessarily equate to harm and the additional units/increase in height over the 'baseline' would be a small component of these panoramic views. However, the proposal, by reason of its size, height and scale would be conspicuous to high sensitivity receptors using this very popular footpath.
23. From the CP the appeal scheme would appear as an unwelcome intrusion into the upper part of the cliff, blurring the distinction between the hotel above and the more naturalistic form and appearance of the cliff. To a limited extent, this would diminish the quality of the views and would fail to conserve and enhance the natural beauty of this nationally important landscape. As set out within the Framework, great weight should be given to conserving landscape and scenic beauty within the AONB. It is more important to conserve the scenic and natural qualities of this designated landscape than it is to increase the presence and confidence of buildings and structures.

⁴ At the Hearing, the appellants accepted that there was a minor error on the elevational drawings of the proposed scheme as the doors to the beach huts would be the same design as those in the approved 40 hut scheme.

⁵ On behalf of the appellants, it has been calculated that the structure would be 12.4m high, would have a depth of 14.5m and a gross external area of 1,142m², including the proposed roof terrace.

24. When viewed from neighbouring sections of the beach the vertical scale of the appeal scheme would be at odds with the built development to the south as well as the landform and geological features to the north. It would introduce buildings and activity higher up the cliff face and when seen from the south would contrast awkwardly with the natural, countryside backdrop to the site. The proposal would not integrate comfortably into this sensitive environment.
25. I conclude on the first main issue that the proposal would have an adverse effect upon the character and appearance of the AONB. It would conflict with the provisions of PLP policy LHH and the aims and objectives of the MP for conserving and enhancing this nationally important landscape.

WHS

26. The appeal site is approximately 275m from the WHS. The main parties agree that it forms part of the setting of this designated heritage asset⁶. At the Hearing, it was also agreed that, in the context of the Framework and with regard to the Statement of Outstanding Universal Value, the significance of this asset is derived primarily from the historic interest afforded by the rocks, fossils and landforms that make up this area of international importance. The relationship between the special qualities of the AONB, in so far as it forms part of the setting of the WHS, and the geology and topography of this asset contribute to an appreciation of the significance (historic interest) of the WHS.
27. When viewed from the south of the appeal site the proposed fourth tier/level of beach huts would interrupt views north towards the WHS from a small section of the promenade/beach. This would diminish the ability to appreciate and understand the geology and topography of this important designated heritage asset. This would amount to less than substantial harm to the significance of the WHS. Given the length of the WHS and the ability to appreciate the heritage interest of this asset from many other parts of the setting, the harm would be at the lower end of the scale of less than substantial harm. Nevertheless, less than substantial harm to such an important designated heritage asset does not equate to a less than substantial planning objection.
28. The proposed development would increase the number of beach huts available in this part of the district and would help to support/strengthen the local tourism and construction industries. It could also result in extra revenue for the Council in terms of rates. In addition, the proposed green walls and seeding bare sections of the cliff with native species would benefit biodiversity. However, given the 'baseline' provided by the scheme for 40 beach huts on the site, these public benefits would be very limited and carry limited weight.
29. I conclude on the second main issue that, on balance, the less than substantial harm to the significance of the WHS that I have identified would not be outweighed by the public benefits of the proposal. There would be conflict with PLP policy LHH and the provisions of the HCMP that are aimed at protecting the significance of the WHS that is derived from its setting.

Other Matters

30. The proposal would have the potential to increase the demand for car parking in the surrounding area. The nearest public car park was empty when I visited the site and there was ample spare capacity for on-street parking along the

⁶ This asset is approximately 155km long and under 1km wide at its widest point.

public highway network. However, I have no doubt that the situation would be very different during school and public holidays and, in particular, during the main summer season when tourists flock to Swanage. I note the concerns of some local residents regarding the increase in pressure for scarce car parking during such periods and the congestion that could arise.

31. Having considered the application and the local objections, I note that the County Highway Authority did not object to the proposals. The appeal scheme would, in effect, result in five additional beach huts over the 'fall-back' / 'baseline' position. There is no cogent evidence to demonstrate that this would increase congestion or compromise highway safety interests. It would be difficult to justify withholding permission on traffic and/or parking grounds.
32. The situation could however be different during the construction phase when traffic that would not otherwise be within this tourist resort would be drawn to this part of Swanage. The Council informed me that it does not request construction traffic management plans. However, if this appeal was to be allowed a planning condition requiring such a plan would be necessary to avoid construction vehicles (including cars and vans used by site operatives) parking and manoeuvring along the highway and increasing the risk of an accident and/or congestion and/or unduly inconveniencing neighbouring residents.
33. Natural England was consulted on the application and did not identify any likely harm to the SSSI. There is nothing of substance to find differently on this matter. There is also no cogent evidence before me to demonstrate that the development would harm the PHC.
34. I note the appellants' argument that the proposal would allow them to recoup more of the costs of the cliff stabilisation works. However, the application was not advanced as enabling development and it is not the purpose of the planning system to compensate applicants for any expenditure or financial losses that they may have incurred in undertaking other development. Although a material consideration, I attach very little weight to this matter.

Planning Balance / Overall Conclusion

35. Given all of the above, including weighing in the planning balance the other matters that I have noted, the proposal would fail to satisfy the environmental dimension to sustainable development. It would conflict with the provisions of the development plan and the policies in the Framework taken as a whole. The appeal should not therefore succeed.

Neil Pope

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr J Clay of Counsel	Cornerstone Barristers
Mr B Christian BSc (Hons), MSc, MRTPI	Senior Planner, Vail Williams LLP
Mr P Russell-Vick DipLA, CMLI	Director, Enplan

FOR THE LOCAL PLANNING AUTHORITY:

Mr A Bird	Consultant Planning Officer
Mr R Brown CMLI	Dorset AONB Landscape Planning Officer

INTERESTED PERSONS:

Mr P Collins	Local resident and the Ballard Estate Company Ltd
Dr J Foster	Local resident and the Ballard Estate Company Ltd
Mr S Scriven	Programme Manager – Heritage and Conservation, Jurassic Coast Trust

DOCUMENTS SUBMITTED AT THE HEARING:

Document 1	Plan of Pines Hotel supplied by Mr Collins
Document 2	Copies of e-mails provided by Mr Collins